

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

EUGENIA ANN D HOFAMMANN
Claimant

PRELUDE BEHAVIORAL SERVICES
Employer

APPEAL 21R-UI-04702-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/12/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 17, 2020, (reference 01) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on November 18, 2020. Claimant participated along with Zarah Roberts, witness. Employer participated by Fonda Frazier, Clinical Manager. The administrative law judge took official notice of the administrative record including the fact-finding documents.

Administrative Law Judge Duane L. Golden entered a decision on December 2, 2020. The claimant appealed that decision to the Employment Appeal Board. The Board remanded the matter back to the appeals bureau for another hearing to allow the admission of exhibits, and to further develop the record. After due notice, another hearing was scheduled for and held on April 12, 2021. Employer participated by Megan Schooler, Human Resources Manager. Claimant participated along with her former co-worker Zarah Roberts. Claimant's Exhibits A-P and employer's Exhibits 1-13 were admitted into evidence. The administrative law judge took official notice of the administrative record including the fact-finding documents.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 10, 2020. Claimant left the employment on that date because she did not believe the employer was doing enough to mitigate her exposure to the covid-19 virus.

Claimant began working for employer as a full-time outpatient substance abuse counselor on September 16, 2019. In March, 2020 the employer began investigating ways it could offer services to its clients in a safe and convenient way during the pandemic. Claimant expressed her concerns about being exposed to the covid-19 virus.

Sometime in early April, 2020 employer offered telehealth appointments with its patients. Claimant was satisfied with that solution, and she believed she was able to provide competent and complete services to her clients.

In May, 2020 employer began to notice that some of its clients were not attending their counseling appointments as they had prior to the pandemic. As those counseling attendance numbers began to drop employer decided it had to bring its counselors back to the office. Claimant was told that she had to return to the office on June 1, 2020 to meet with her clients.

Claimant did not agree with employer's decision, and she voiced her concerns to employer. Employer responded by providing claimant with a list all the actions it was taking to avoid the spread of covid-19 at their offices, and employer explained that it was following CDC guidelines.

Claimant felt vulnerable and exposed to the virus. She was very unhappy with employer's decision to provide face to face counseling services even with PPE. Claimant decided that she must resign to protect her health. Claimant left the employment on July 10, 2020.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she was dissatisfied with employer's covid-19 mitigation practices.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits:

1. *Voluntary quitting.* If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Admin. Code r. 871-24.25(21) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

- (21) The claimant left because of dissatisfaction with the work environment.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

Individuals who leave their employment due to disparate treatment are considered to have left work due to intolerable or detrimental working conditions and their leaving is deemed to be for good cause attributable to the employer. The test is whether a reasonable person would have

quit under the circumstances. See *Aalbers v. Iowa Dep't of Job Serv.*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Emp't Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

Employer complied with CDC guidelines, and genuinely attempted to work with claimant in regards to her covid-19 mitigation concerns. Employer's actions were reasonable given the circumstances.

While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer. Benefits must be denied.

DECISION:

The decision of the representative dated Sept 17, 2020, (reference 01) is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



Duane L. Golden
Administrative Law Judge

April 20, 2021
Decision Dated and Mailed

dlg/ol

Note to Claimant:

This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final, or if you are not eligible for PUA, you may have an overpayment of benefits.